

ENTERED

February 19, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JULIETA GARIBAY, *et al*,

Plaintiffs,

VS.

DAVID WHITLEY, *et al*,

Defendants.

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CIVIL ACTION NO. 2:19-CV-040

ORDER TRANSFERRING CASE

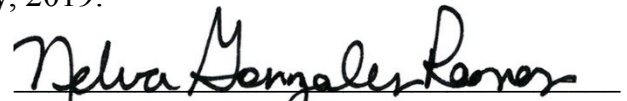
On February 2, 2019, Plaintiffs filed this action seeking relief from the Texas Secretary of State's Election Advisory No. 2019-02, issued January 25, 2019. On January 29, 2019, a different set of plaintiffs filed a similar action, styled *Texas League of United Latin American Citizens v. Whitley*, No. 5:19-cv-074-FB in the United States District Court for the Western District of Texas, San Antonio Division. Plaintiffs in both cases seek to certify a class action with a class of plaintiffs that consists of citizens who are registered to vote, but whose names have appeared on the list of voters being challenged as non-citizens. Plaintiffs in both cases seek to enjoin any action that would interfere with the individual plaintiffs' right to vote, taken on the basis of the challenged list and Advisory.

The Court finds that there is substantial overlap between the cases. Consequently, pursuant to the first-to-file rule, this Court is required to defer to the Western District court, a court of coordinate jurisdiction and equal rank, to determine whether this case may proceed independently or in coordination with the previously-filed case. *Save*

Power Ltd. v. Syntek Finance Corp., 121 F.3d 947, 950 (5th Cir. 1997); *Mann Mfg, Inc. v. Hortex, Inc.*, 439 F.2d 403 (5th Cir. 1971). The rule applies despite the fact that the parties are not identical. *Save Power Ltd, supra*.

Without ruling on the remaining issues briefed in Defendants' Motion to Dismiss (D.E. 10), the Court GRANTS Defendants' request to transfer and TRANSFERS this action to the United States District Court for the Western District of Texas, San Antonio Division, to be considered in coordination with civil action no. 5:19-cv-074.

ORDERED this 19th day of February, 2019.


NEELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE